

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7768

Petition of Vermont Transco LLC, and Vermont)
Electric Power Company, Inc., for authority,)
pursuant to 30 V.S.A. § 248a, to install wireless)
communications facilities in Canaan, Vermont, as)
part of a statewide radio project)

Order entered: 9/20/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by Vermont Transco LLC and Vermont Electric Power Company, Inc. (collectively, "VELCO" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order")¹, and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of a telecommunications facility in the Town of Canaan, Vermont (the "Project"), as part of a statewide radio project .

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on August 8, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the facilities identified above. Pursuant to the Procedures Order, comments regarding the petition are due within 21 days of filing with the Board.

On September 9, 2011, the Department of Public Service ("Department") filed a letter recommending that the Board issue a CPG for the Project without further evidence or hearings. The Department also recommends that the Board add a condition to the CPG requiring the Petitioner to file copies of engineering documents for the proposed tower and tower foundation prior to Project construction. We agree with the Department and will add this condition to the CPG.

¹. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 14, 2009.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project is part of VELCO's Statewide Radio Project ("SRP") that involves the creation of a private mobile communications network consisting of multiple wireless communications facilities. The facilities will be located throughout the state for purposes associated with utility installations, repair and maintenance of infrastructure and emergency response. Nelson & Chitwood Joint Panel pf. at 8.

2. The Project is proposed to be located on a one-acre parcel at Green Hill Road in Canaan, on property to be purchased by VELCO. *Id.* at 3.

3. The Project involves the installation of a new monopole telecommunications tower with antennas, an equipment shelter, a generator, propane tank, associated operating equipment and a fenced gravel compound. The Project also includes the construction of a new access road and utility corridor. *Id.* at 4-5.

4. The Project includes a 100-foot-tall monopole tower with 2 antennas, each measuring approximately 4 feet by 4 feet and mounted at a height of 100 feet on the tower. The equipment shelter will be 12 feet by 20 feet. The 500-gallon propane tank will be mounted on a 4-foot by 11-foot platform southeast of the shelter. The Project also includes the construction of a 12-foot-wide access road extending 27 feet from an existing gravel drive to the 55-foot by 60-foot compound. A new overhead utility corridor will also be located along the northern edge of the parcel on which the Project is to be located. *Id.*

State Telecommunications Policy

[30 V.S.A. § 248a(a)]

5. The Project is consistent with the goal of directing the benefits of improved telecommunications technology to all Vermonters pursuant to 30 V.S.A. § 202c(b). The Project

will facilitate repair and maintenance of infrastructure and emergency response. Nelson & Chitwood Joint Panel pf. at 6.

**Aesthetics, Historical Sites, Air and Water Purity,
the Natural Environment, and Public Health and Safety**

[30 V.S.A. § 248a(c)(1)]

6. The Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety. This finding is supported by findings 7 through 28 below, which are the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a) (1)-(8) and (9)(k).

Outstanding Resource Waters, Headwaters

[10 V.S.A. §§ 1424a(d), 6086(a)(1)(A)]

7. The Project will have no impact on outstanding resource waters or headwaters. Tomberg & Smith Joint Panel pf. at 12-13.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

8. The Project will not result in undue water or air pollution. This finding is supported by findings 9 through 12, below.

9. The Project will not utilize a water supply at the site. Tomberg & Smith Joint Panel pf. at 9.

10. All construction will be done in accordance with the Vermont standards and specifications for erosion and sediment control. *Id.* at 8.

11. Noise associated with construction activities will be short term, and noise from the generator will be limited in the absence of a prolonged power outage. Dust associated with construction vehicles will be controlled at the site. *Id.*

12. The Radio Frequency Radiation ("RFR") associated with the Project will meet all standards prescribed by the Federal Communications Commission ("FCC"). The RFR emissions

from the antenna installation are calculated to be 2.8% of the FCC standard for Maximum Permissible Exposure. Exh JP-6C-5.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

13. The Project does not involve disposal of wastes or injection of any material into ground water or wells. Tomberg & Smith Joint Panel pf. at 9.

Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(1)(C), (a)(2) and (3)]

14. The Project will have minimal impact on water conservation measures, as the Project will not be connected to water supplies. Any water needed in connection with Project construction will be brought in from sources outside the Project site. Tomberg & Smith Joint Panel pf. at 9-10.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

15. The Project is not located in a floodway. Tomberg & Smith Joint Panel pf. at 10.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

16. The Project will not have an undue adverse impact on streams. The overhead utility corridor for the Project will cross an intermittent stream. The stream will be spanned with temporary matting during construction in order to avoid any impacts to the stream. Tomberg & Smith Joint Panel pf. at 11.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

17. The Project is not located on a shoreline. Tomberg & Smith Joint Panel pf. at 11.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

18. The Project will not result in undue adverse impacts to wetlands. The overhead utility corridor for the Project crosses a Class III wetland. Overhead utility work, tree clearing, and temporary equipment crossings will impact less than 3,000 square feet of the wetland and all construction will be done in accordance with the Vermont standards and specifications for erosion and sediment control. Tomberg & Smith Joint Panel pf. at 8, 12.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

19. The Project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water. All construction work will comply with the Vermont standards and specifications for erosion and sediment control. Tomberg & Smith Joint Panel pf. at 8, 14.

Transportation System

[10 V.S.A. § 6086(a)(5)]

20. The Project will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports or airways, and other means of transportation existing or proposed. Traffic to the unmanned site will be limited following construction. Tomberg & Smith Joint Panel pf. at 15.

Educational Services

[10 V.S.A. § 6086(a)(6)]

21. The Project will not cause an unreasonable burden on the ability of a municipality to provide educational services. Educational services will not be impacted by the Project. Tomberg & Smith Joint Panel pf. at 16.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

22. The Project will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services. The Project will not require any additional municipal or governmental services. Tomberg & Smith Joint Panel pf. at 16.

Aesthetics, Historical Sites, and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

23. The Project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 24 through 27, below.

24. The Project will be visible from certain vantage points; however, views of the Project will be mitigated by the surrounding topography and vegetation. Tomberg & Smith Joint Panel pf. at 5-6.

25. The Project will not have an adverse impact on known historic sites. *Id.* at 6-7.

26. The Project will not have an adverse impact on irreplaceable natural areas. *Id.* at 14-15.

27. The Project will not destroy or significantly imperil endangered species or necessary wildlife habitat. *Id.*

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

28. The Project will not unnecessarily or unreasonably endanger any public or quasi-public investment in public facilities, services, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to public investments. Tomberg & Smith Joint Panel pf. at 16-17.

Town and Regional Plans

[30 V.S.A. § 248a(c)(2)]

29. The Project, by providing the opportunity for expanded wireless telecommunications services and enhancing emergency response abilities in the surrounding area, is consistent with both the Canaan Municipal Plan and the Northeast Kingdom Regional Plan. Tomberg & Smith Joint Panel pf. at 22-23.

30. The Town of Canaan and the Northeastern Vermont Development Association both have filed letters recommending approval of the Project with the Petitioner. Exh. JP-7C-7

State and Local Permits

[30 V.S.A. § 248a(d)]

31. There are presently no permits related to the parcel on which the Project site is to be located. Nelson & Chitwood Joint Panel pf. at 10.

IV. CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title.

Further, pursuant to the Procedures Order:

Unless the Board determines that an application raises a significant issue, it shall issue a final determination on an application within 60 days of its filing

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by Vermont Transco LLC, and Vermont Electric Power Company, Inc., in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 20th day September, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 20, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.